

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL J. MITHCELL and  
TAMMIHA M. MITCHELL, husband  
and wife,

vs.

CI-02-CV3652

POWERMATIC CORPORATION, a/k/a  
POWERMATIC, INC., JET EQUIPMENT  
& TOOLS, INC., AND DEVLIEG-  
BULLARD, INC. a/k/a DEVLIEG-  
BULLARD II, INC.

JURY TRIAL DEMANDED

AFFIDAVIT OF WILLIAM BERNSTEIN, ESQUIRE

STATE OF NEW YORK :  
: ss.:  
COUNTY OF NEW YORK :

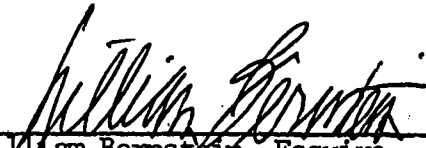
I, WILLIAM BERNSTEIN, Esquire, being duly sworn according to law, depose and say that I am an attorney in sole practice duly licensed to practice in the State of New York, that at all relevant times I was corporate secretary and counsel for WMH Tool Group, Inc., and was formerly corporate secretary and counsel for Powermatic Corporation. I further depose and say that I have been the source of information regarding the corporate relationships of the Powermatic Division of DeVlieg-Bullard, Inc., Powermatic Corporation, Jet Equipment & Tools, Inc., and WMH Tool Group, Inc.

On April 3, 2003, I underwent major surgery at New York Presbyterian Hospital (formerly, New York Hospital) for removal of my cancerous left kidney. I was discharged from the hospital on April 7, 2003, and my recuperation has been substantially slower than I anticipated. I am seventy-five years of age and am presently only able to work approximately fifteen to twenty hours per week, whereas before my surgery I worked approximately fifty to sixty hours per week.

I am currently, and will likely continue to be, under the medical care of my surgeon, kidney specialist, internist/cardiologist, and pulmonary

specialist, and am taking prescriptive medications for high cholesterol, high blood pressure, and urinary function.

I believe that I can be deposed in this litigation within the next two or three months, preferably in New York City, although I also believe that I will be able to take the train from New York City to Philadelphia for a deposition. It would be more difficult for me to handle traveling from New York City through Philadelphia to Lancaster, Pennsylvania, for a deposition in the office of plaintiffs' attorney.

 5/13/03  
William Bernstein, Esquire

Sworn to and Subscribed  
before me this 13<sup>th</sup> day  
of May, 2003.

  
Notary Public

**DANIL I. VINOKUROV**  
Notary Public State of New York  
No. 01V16084200  
Qualified in Kings County  
Commission Expires 09/24/2004

**BENNETT, BRICKLIN & SALTZBURG LLP**

**MONTGOMERY COUNTY OFFICE**  
ONE MONTGOMERY PLAZA  
SUITE 606  
NORRISTOWN, PA 19401-4807  
(610) 272-4900  
FAX: (610) 272-5105

♦  
**NEW JERSEY OFFICE**  
204 WHITE HORSE PIKE  
SECOND FLOOR  
HADDON HEIGHTS, NJ 08035-1739  
(856) 547-5756  
FAX: (856) 547-5880

♦  
**DELCHESTER OFFICE**  
109 EAST EVANS STREET  
SUITE A  
WEST CHESTER, PA 19380-2600  
(610) 344-3990  
FAX: (610) 344-3995

ATTORNEYS AT LAW

1601 MARKET STREET

16TH FLOOR

PHILADELPHIA, PENNSYLVANIA 19103-2393

(215) 561-4300

FAX: (215) 561-6661

WEBSITE: [www.bbs-law.com](http://www.bbs-law.com)

**CENTRAL PENNSYLVANIA OFFICE**  
313 W. LIBERTY STREET  
SUITE 371  
LANCASTER, PA 17603  
(717) 393-4400  
FAX: (717) 393-4322

♦  
**BUCKS COUNTY/LEHIGH VALLEY OFFICE**  
711 HYDE PARK  
DOYLESTOWN, PA 18901  
(215) 489-0815  
FAX: (215) 489-0818

WRITER'S DIRECT DIAL: (215) 665-3307  
WRITER'S EMAIL: [fishbein@bbs-law.com](mailto:fishbein@bbs-law.com)

August 12, 2003  
VIA OVERNIGHT MAIL

Soren P. West, Esquire  
319 North Duke Road  
Lancaster, PA 17602-4915

Re: Michael J. Mitchell and Tammitha M. Mitchell  
vs. Powermatic Corporation, et al  
U.S.D.C., E.D. Pa. No. CI-02-CV3652  
Our File No. 90898

Dear Mr. West:

Enclosed please find true and correct copies of the supplemental answers of WMH Tool Group, Inc. (formerly known as Jet Equipment & Tools, Inc.), Successor-By-Merger to Powermatic Corporation to plaintiff's first set of interrogatories and answer to plaintiff's second set of interrogatories, along with a certificate of service, the originals of which have been retained in my file. Copies of the original verifications will be supplied in a day or two. I will get back to you by early next week with the names of the individual whom my client will designate for depositions.

I would therefore appreciate your contacting the court to withdraw your motion for sanctions without prejudice.

Very truly yours,

Joel Paul Fishbein

JPF/mee - Enclosure

cc/w.enc.: Warren E. Voter, Esquire (Via Hand Delivery)

cc/w/oenc.: Honorable William Yohn, Jr. (Via Hand Delivery)

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ONE MONTGOMERY PLAZA  
SUITE 606  
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(610) 272-4900  
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204 WHITE HORSE PIKE  
SECOND FLOOR  
HADDON HEIGHTS, NJ 08035-1739  
(856) 547-5756  
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109 EAST EVANS STREET  
SUITE A  
WEST CHESTER, PA 19380-2600  
(610) 344-3990  
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1601 MARKET STREET  
16TH FLOOR  
PHILADELPHIA, PENNSYLVANIA 19103-2393  
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FAX: (215) 561-6661  
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Dear Mr. West:

Supplementing my letter of today, my clients have designated for depositions the following individuals: Ben Nixon of the Human Services Department of WMH Tool Group, Inc., and Sam Ellis of the Technical Services Department.

Both of these gentlemen are located in La Vergne, Tennessee. Kindly contact my office so that we can arrange for a mutually convenient date for their depositions.

Very truly yours,

Joel Paul Fishbein

JPF/mee

cc: Warren E. Voter, Esquire

Honorable William Yohn, Jr.  
Judge of the U.S. District Court for the  
Eastern District of Pennsylvania